

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 9342-38	
I hereby certify that this correspondence is being transmitted electronically to the U.S. Patent and Trademark Office on <u>June 13, 2007</u> Signature <u>Carry Gregory</u> Typed or printed name <u>Carry Gregory</u>		Application Number 10/531,223	Filed April 13, 2005
		First Named Inventor Ake Rydgren	
		Art Unit 2617	Examiner Naghmeh Mehrpour

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.
 assignee of record of the entire interest.
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
 (Form PTO/SB/96)
 attorney or agent of record. **48,441**
 Registration number _____
 attorney or agent acting under 37 CFR 1.34.
 Registration number if acting under 37 CFR 1.34 _____



Laura M. Kelley

Typed or printed name

919-854-1400

Telephone number

June 13, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
 Submit multiple forms if more than one signature is required, see below*.

<input checked="" type="checkbox"/>	*Total of <u>1</u> forms are submitted.
-------------------------------------	---

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Rydgren et al.
Application No.: 10/531,223
Filed: April 13, 2005
For: *Split Battery Supply*

Confirmation No. 7824
Group Art Unit: 2617
Examiner: Naghmeh Mehrpour

Date : June 13, 2007

Mail Stop AF
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF APPLICANTS'
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

It is not believed that an extension of time and/or any additional fee(s) are required beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account No. 50-0220.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of Claims 1-22, which were finally rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2004/0198470 to Dyer ("Dyer") in the Final Office Action of March 13, 2007 (the Final Action). Applicants respectfully submit that many of the recitations of the claims are not described or suggested by Dyer. One or more elements needed for a *prima facie* rejection under 35 USC §102(e) are, therefore, simply not present. In the interest of brevity, and without waiving the right to argue additional grounds should this Request be denied, Applicants will point out the Examiner's omissions of one or more essential elements needed for a *prima facie* rejection.

I. Claims 1-14 and 21-22 are not anticipated by Dyer

Claim 1 recites a headset system including:

a headset for direct wireless communication of audio data with a communication terminal and including a first power supply unit;
a headset carrying device; and
a charger for charging the first power supply unit from a second power supply unit, wherein the headset carrying device comprises the charger and the second power supply unit, and wherein the headset carrying device is separate from the communication terminal and is devoid of a holding member or chamber for holding the communications device.

Claim 21 recites a headset system including:

a headset for direct wireless communication of audio data with a communication terminal and including a first power supply unit;
a headset carrying device configured to hold at least a portion of the headset therein; and
a charger for charging the first power supply unit from a second power supply unit, wherein the headset carrying device comprises the charger and the second power supply unit, wherein the headset carrying device is separate from the communication terminal and is configured to carry substantially only the charger, the second power supply unit, and the headset with the first power supply unit.

Applicants submit that at least the above-underlined recitations are not taught or suggested by Dyer. In particular, Claims 1 and 21 recite that the headset is for direct wireless communication of audio data with a communication terminal.

The Final Action takes the position that the integral dongle 1210 of Dyer is equivalent to the headset carrying device recited in Claim 1 (Final Action, page 2). However, Dyer clearly proposes that the headsets described therein communicate with a transceiver in the dongle. As noted in paragraph 44 of Dyer, “[w]ireless headset 310 includes radio 980 for transmitting signals to, and receiving signals from, a transceiver (not shown) in dongle 950.” Dyer also describes the function of the dongle in paragraph 3, line 7 *et seq.* as follows:

The dongle receives headset signals from the wireless headset, typically in the form of RF signals, transforms the headset signals into a format used by the external device (if necessary) and transmits the transformed headset signals to the external device. Similarly, the dongle receives device signals from the external device, transforms the device signals into a

format used by the headset (if necessary) and transmits the transformed device signals to the headset.

Applicants note that the external device is described immediately following this portion of Dyer (paragraph 4) as a cellular phone. Accordingly, the headset of Dyer is not for direct wireless communication of audio data with a communication terminal where the headset carrying device is separate from the communication terminal as recited in Claim 1 because the headset of Dyer communicates with the dongle (which the Final Action identifies as equivalent to the headset carrying device). The dongle of Dyer transmits/receives the signals to/from the external device or cellular phone, and direct wireless communication with a communication terminal (where the headset carrying device is separate from the communication terminal) is simply not taught or suggested by Dyer.

For at least these reasons, Applicants submit that independent Claims 1 and 21 are not anticipated by Dyer. Claims 2-13 and 22 are patentable at least per the claims from which they depend. Applicants respectfully request the withdrawal of the rejections of such claims under § 102.

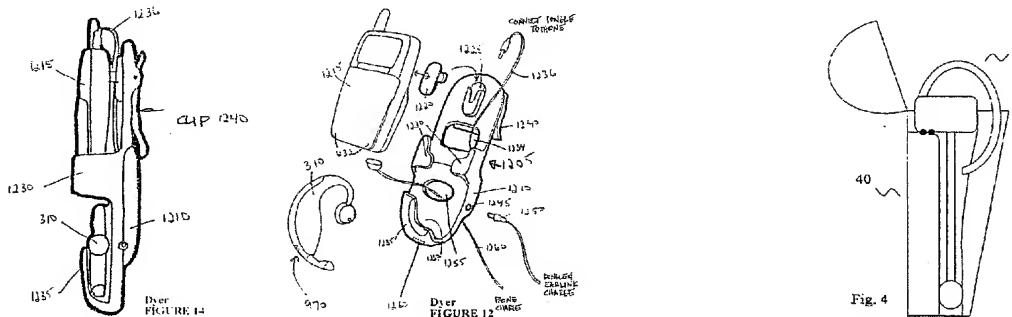
II. Claim 22 is separately patentable over Dyer

Claim 22 depends from Claim 1 and is patentable for the reasons discussed above with respect to Claim 1. In addition, Claim 22 is separately patentable at least for the reasons that follow. Claim 22 recites as follows:

the headset carrying device comprises a compact case sized and configured so that a boundary of the compact case substantially corresponds to a length and/or a width of the headset, the compact case having an elongated bore configured to receive a first portion of the headset therein and a lid pivotally hinged on the case and movable between an open and a closed position, the lid being configured to enclose a second portion of the headset when the lid is in the closed position.

The Action takes the position that Dyer discloses the features of Claim 22 in Figure 14. Figures 12 and 14 of Dyer (which both illustrate the same device 1205) and Figure 4 of the current application are reproduced below. As is clearly shown in Figure 14 of Dyer, the

carrying device 1205 is configured to hold a mobile phone 1236 and therefore is not "devoid of a holding member or chamber for holding the communications device" as recited in Claim 1, from which Claim 22 depends.



In addition, none of the dongles discussed in Dyer (including the device 1205 of Figures 12 and 14) teach or suggest numerous recitations of Claim 22. For example, Dyer does not disclose that "the boundary of the compact case substantially corresponds to a length and/or width of the headset," for example, as shown in Figure 4 of the current application. Moreover, Dyer does not disclose "a lid pivotally hinged on the case and movable between an open and a closed position." The devices of Dyer including the device 1205 of Figure 14 do not even include a lid or an elongated bore and therefore also do not teach or suggest "an elongated bore configured to receive a first portion of the headset therein" or that the lid is "configured to enclose a second portion of the headset when the lid is in the closed position" as shown, for example in Figure 4.

For at least these reasons, Applicants submit that Dyer does not teach or suggest numerous recitations of Claim 22 and cannot anticipate Claim 22. Therefore, Claim 22 is separately patentable over Dyer. Applicants respectfully request that the rejection of Claim 22 be withdrawn.

III. Claims 14-20 are not anticipated by Dyer

Claim 14 recites a headset carrying device for carrying a headset when the headset is not in use, including:

an electrical charger and means for establishing electrical contact between the charger and a first power supply unit of a headset carried by the headset carrying device, the electrical charger being configured to

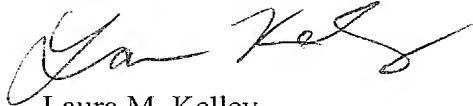
charge the first power supply unit from a second power supply unit, wherein the headset carrying device includes the second power supply unit and is separate from a communication terminal and devoid of a holding member or chamber for holding the communication terminal to which the headset is communicatively connectable.

Applicants submit that Dyer does not teach or suggest at least a headset carrying device that includes an electrical charger "configured to charge the first power supply unit from a second power supply unit, wherein the headset carrying device includes the second power supply unit." Dyer makes no mention of a headset carrying device that includes a power supply unit. In contrast, in paragraphs 37-41, Dyer discusses a cord 715/920 in Figures 7-9 that supplies power to battery chargers 940 in the dongle 950.

For at least these reasons, Applicants submit that independent Claim 14 is not anticipated by Dyer. Claims 15-20 are patentable at least per patentability of Claim 14, from which they depend. Applicants respectfully request the withdrawal of the rejections of such claims under § 102.

In conclusion, for at least the reasons discussed above, the recitations of the pending claims are not taught or suggested by Dyer so that one or more elements needed for a *prima facie* rejection under 35 USC §102(e) are simply not present. Therefore, Applicants respectfully request Pre-Appeal Brief Review of the present application and that the rejections be reversed by the Pre-Appeal Brief Review Panel prior to the filing of an Appeal Brief.

Respectfully submitted,



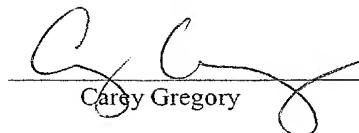
Laura M. Kelley
Registration No.: 48,441

USPTO Customer No. 54414
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on June 13, 2007.

Signature:


Carey Gregory